

10/02/03
16085 U.S. PTO

**DECLARATION, PETITION AND POWER OF ATTORNEY
FOR PATENT APPLICATION**

(Check one):

Declaration Submitted with Initial Filing
 Declaration Submitted after Initial Filing

COPY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**NOVEL CARBOXYLESTERASE NUCLEIC ACID MOLECULES,
PROTEINS AND USES THEREOF**

the specification of which (check one):

is attached hereto.

OR

was filed on 10 November 1997 as PCT International Application Number PCT/US97/20598 and received U.S. National Phase Serial No. 09/403,942.

and was amended by PCT Article 19 Amendment on _____
(if applicable),

and was amended by PCT Article 34 Amendment on _____
(if applicable).

I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby state that I have reviewed and understood the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

PRIORITY CLAIM

(Check one):

no such applications have been filed.
 such applications have been filed as follows

1) **FOREIGN PRIORITY CLAIM:** I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or any PCT international application having a filing date before that of the application on which priority is claimed.

| Prior Foreign Application Number(s) | Country | Foreign Filing Date (dd/mm/yyyy) | Priority Not Claimed | Certified Copy Attached Yes No |
|-------------------------------------|---------|----------------------------------|--------------------------|---|
| | | | <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> |

Additional foreign application numbers are listed on a supplemental priority sheet attached hereto.

2) **PROVISIONAL PRIORITY CLAIM:** I hereby claim the benefit under Title 35, United States Code §119(e) of any United States provisional application(s) listed below.

| Provisional Application Number(s) | Filing Date (dd/mm/yyyy) |
|-----------------------------------|--------------------------|
| | |

Additional provisional application numbers are listed on a supplemental priority sheet attached hereto.

3) **U.S./PCT PRIORITY CLAIM:** I hereby claim the benefit under Title 35, United States Code, §120 of any United States application or §365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

| U.S. Parent Application Number | PCT Parent Number | Parent Filing Date (dd/mm/yyyy) | Parent Patent Number (if applicable) |
|--------------------------------|-------------------|---------------------------------|--------------------------------------|
| 08/747,221 | | 12 November 1996 (12.11.96) | |
| | PCT/US97/20598 | 10 November 1997 (10.11.97) | |

Additional U.S. or PCT international application numbers are listed on a supplemental priority sheet attached hereto.

POWER OF ATTORNEY:

As a named inventor, I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

| | | | |
|------------------------|-----------------|------------------------|-----------------|
| W. Hugo Liepmann | Reg. No. 20,407 | Catherine J. Kara | Reg. No. 41,106 |
| James E. Cockfield | Reg. No. 19,162 | Jeanne M. DiGiorgio | Reg. No. 41,710 |
| Thomas V. Smurzynski | Reg. No. 24,798 | Megan E. Williams | Reg. No. 43,270 |
| Ralph A. Loren | Reg. No. 29,325 | Nicholas P. Triano III | Reg. No. 36,397 |
| Giulio A. DeConti, Jr. | Reg. No. 31,503 | Peter C. Lauro | Reg. No. 32,360 |
| Ann Lamport Hammitt | Reg. No. 34,858 | Timothy J. Douros | Reg. No. 41,716 |
| Elizabeth A. Hanley | Reg. No. 33,505 | John L. Welch | Reg. No. 28,129 |
| Amy E. Mandragouras | Reg. No. 36,207 | DeAnn F. Smith | Reg. No. 36,683 |
| Anthony A. Laurentano | Reg. No. 38,220 | William D. DeVaul | Reg. No. 42,483 |
| Jane E. Remillard | Reg. No. 38,872 | David J. Rikkers | Reg. No. 43,882 |
| Jeremiah Lynch | Reg. No. 17,425 | Chi Suk Kim | Reg. No. 42,728 |
| Kevin J. Canning | Reg. No. 35,470 | | |
| David A. Lane, Jr. | Reg. No. 39,261 | | |

Send Correspondence to:

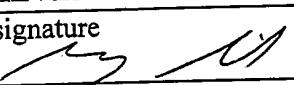
Elizabeth A. Hanley, Lahive & Cockfield, LLP, 28 State Street, Boston, Massachusetts 02109,
United States of America

Direct Telephone Calls to: (name and telephone number)

Elizabeth A. Hanley, (617) 227-7400

Wherefore I petition that letters patent be granted to me for the invention or discovery described and claimed in the attached specification and claims, and hereby subscribe my name to said specification and claims and to the foregoing declaration, power of attorney, and this petition.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

| | |
|---|-----------------|
| Full name of sole or first inventor Gary M. SILVER | |
| Inventor's signature  | Date 4-26-00 |
| Residence 1424 Fleetwood Court, Fort Collins, Colorado 80521, United States of America | |
| Citizenship United States of America | |
| Post Office Address (if different) | |

| | |
|---|-----------|
| Full name of sole or first inventor Nancy WISNEWSKI | Date |
| Inventor's signature <i>Nancy Wisnewski</i> | 26 APR 00 |
| Residence 4219 Beaver Creek Drive, Fort Collins, Colorado 80526, United States of America | |
| Citizenship United States of America | |
| Post Office Address (if different) | |

| | |
|---|-------------|
| Full name of sole or first inventor Kevin S. BRANDT | Date |
| Inventor's signature <i>Kevin Brandt</i> | 26 APRIL 00 |
| Residence 3501 5 STONE 14-316 Ft Collins CO 80525 KSB | |
| 706 Walnut Street, Windsor, Colorado 80550, United States of America | |
| Citizenship United States of America | |
| Post Office Address (if different) | |

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Silver, Gary M.
Wisnewski, Nancy
Brandt, Kevin S.

Serial No.: 09/403,942

Filed: May 2, 2000

Atty. File No.: FC-1-C1-PUS (HKZ-010US)

For: "NOVEL CARBOXYLESTERASE
NUCLEIC ACID MOLECULES,
PROTEINS AND USES THEREOF"

) Group Art Unit: 1652

) Examiner: Kerr, K.

COPY
REVOCATION OF
POWER OF ATTORNEY
AND NEW APPOINTMENT

| | |
|---|----------------------------|
| CERTIFICATE OF MAILING | |
| I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE COMMISSIONER OF PATENTS AND TRADEMARKS, MAY 10, 2001. | |
| HESKA CORPORATION | By: <i>Susan A. Gordon</i> |
| Susan A. Gordon | |

Commissioner for Patents
Washington, DC 20231

Dear Sir:

Heska Corporation, the undersigned, assignee of the subject matter of the above-identified United States patent application hereby revokes all powers of attorney previously given and appoints

Heska Corporation, a Delaware corporation, represented by:

Carol Talkington Verser
Timothy L. McCutcheon
Theresa A. Brown

Registration No. 37,459;
Registration No. 41,184; and
Registration No. 32,547;

as principal attorneys and agents to prosecute said application and to transact all business in the Patent and Trademark Office connected therewith.

Please address all future correspondence to PTO Customer No. 026949.

Respectfully submitted,

By:

James H. Fuller
James H. Fuller
President and Chief Operating Officer
Heska Corporation
1613 Prospect Parkway
Fort Collins, Colorado 80525

Dated: May 16, 2001

Please type a plus sign (+) inside this box

Approved for use through 10/31/2002. OMB 0651-0035
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

CHANGE OF CORRESPONDENCE ADDRESS Application

Address to:
Assistant Commissioner for Patents
Washington, D.C. 20231

| | |
|------------------------|----------------|
| Application Number | 09/403,942 |
| Filing Date | May 2, 2000 |
| First Named Inventor | Gary M. Silver |
| Group Art Unit | 1652 |
| Examiner Name | Kerr, K. |
| Attorney Docket Number | FC-1-C1-PUS |

Please change the Correspondence Address for the above-identified application

to:



Customer Number

026949

Type Customer Number here

COPY

OR

 Firm or Individual Name

Address

Address

City

Country

Telephone

State

ZIP

Fax

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the :

- Applicant/Inventor.
- Assignee of record of the entire interest.
- Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).
- Attorney or Agent of record.
- Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number _____

Typed or Printed Name

Timothy L. McCutcheon, Esq., Registration No. 41,184

Signature

Date

May 10, 2001

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

*Total of _____ forms are submitted.

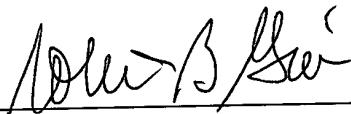
Burden Hour Statement: This form is estimated to take 3 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

POWER OF ATTORNEY

On behalf of Heska Corporation, a Delaware corporation, having a principal place of business at 1613 Prospect Parkway, Fort Collins, Colorado 80525, being the assignee of and owning all right, title and interest in the invention entitled "NOVEL CARBOXYL ESTERASE NUCLEIC ACID MOLECULES, PROTEINS AND USES THEREOF" for which application for Letters Patent of the United States has been made by Gary M. Silver, Nancy Wisnewski, and Kevin S. Brandt, said application being identified as Attorney File No. FC-1-C1-PUS-1 and executed on even date herewith, I, Robert B. Grieve, as Chairman and Chief Executive Officer, of Heska Corporation, hereby appoint Carol Talkington Verser, Registration No. 37,459; Timothy L. McCutcheon, Registration No. 41,184; Theresa A. Brown, Registration No. 32,547; and Richard J. Stern, Registration No. 50,668; of HESKA CORPORATION, 1613 Prospect Parkway, Fort Collins, Colorado 80525, telephone number (970) 493-7272, as attorneys and agents for Heska Corporation with full powers of substitution, association and revocation to prosecute the application and related U.S. and foreign applications and to transact all business in the United States Patent and Trademark Office and all foreign and international patent offices connected therewith.

Dated: October 2, 2003

By: _____
Name: Robert B. Grieve
Title: Chairman and Chief Executive Officer



COPY

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN

I hereby declare that I am an official empowered to act on behalf of Heska Corporation of 1613 Prospect Parkway, Fort Collins, Colorado 80525, a small business concern.

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled "NOVEL CARBOXYL ESTERASE NUCLEIC ACID MOLECULES, PROTEINS AND USES THEREOF," and identified as Attorney File No. HKZ-010US (FC-1-C1-PUS), described in the specification filed May 2, 2000, receiving Serial No. 09/403,942.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

NAME _____

ADDRESS _____

INDIVIDUAL SMALL BUSINESS CONCERN NONPROFIT

ORGANIZATION _____

NAME _____

ADDRESS _____

INDIVIDUAL SMALL BUSINESS CONCERN NONPROFIT

ORGANIZATION _____

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Dated: September 10, 2003

By: Robert B. Grieve

Name: Robert B. Grieve

Title: Chairman and Chief Executive Officer

Heska Corporation
1613 Prospect Parkway
Fort Collins, Colorado 80525

FORM PTO-1595

(Rev. 6-93)
OMB No. 0651-0011 (exp. 4/94)

RECORDATION FORM COVER SHEET

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

05-24-2000

Tab settings ⇡⇨⇨⇨

To the Honorable Commissioner of

▼ ▼ ▼
shed original documents or copy thereof.

1. Name of conveying party(ies):

Gary M. Silver
Nancy Wisnewski
Kevin S. Brandt

101365618

Name: Heska Corporation

Internal Address: 1613 Prospect Parkway

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance

| | |
|--|---|
| <input checked="" type="checkbox"/> Assignment | <input type="checkbox"/> Merger |
| <input type="checkbox"/> Security Agreement | <input type="checkbox"/> Change of Name |
| <input type="checkbox"/> Other _____ | |

Execution Date: April 26, 2000

Street Address: _____
 City: Fort Collins State: Colorado ZIP: 80525

Additional name(s) & address(es) attached? Yes No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s)
09/403,942

B. Patent No.(s)

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Elizabeth A. Hanley, Esq.

Internal Address: Lahive & Cockfield, LLP

Street Address: 28 State Street

City: Boston State: MA ZIP: 02109

6. Total number of applications and patents involved: 17. Total fee (37 CFR 3.41).....\$ \$40.00 Enclosed Authorized to be charged to deposit account

8. Deposit account number:

12-0080

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Elizabeth A. Hanley, Esq.

Name of Person Signing

Signature

6/21/00

Date

Total number of pages including cover sheet, attachments, and document: 6

Mail documents to be recorded with required cover sheet information to:

05/23/2000 ASCOTT 00000176 09403942 Commissioner of Patents and Trademarks, Box Assignments
Washington, D.C. 20231

01 FC:581

40.00 OP

ASSIGNMENT

We, Gary M. Silver of Fort Collins, Colorado, Nancy Wisnewski of Fort Collins, Colorado, and Kevin S. Brandt of Windsor, Colorado, in consideration of One Dollar and other valuable consideration paid to us by

Heska Corporation

a corporation of Colorado, having its principal place of business at Fort Collins, Colorado, the receipt of which is hereby acknowledged, do hereby sell, assign and transfer unto said

Heska Corporation

its successors and assigns, the entire interest for the United States of America and all foreign countries including all rights of priority under the International Convention for the Protection of Industrial Property in a certain invention or improvement in

NOVEL CARBOXYLESTERASE NUCLEIC ACID MOLECULES, PROTEINS AND USES
THEREOF

described in an application

executed by us of even date herewith and about to be filed
 Serial No. 09/403,942, filed on October 29, 1999

in the United States Patent and Trademark Office, and in all Letters Patent of the United States and all foreign countries which may or shall be granted on said invention, or any parts thereof, or on said application, or any divisional, continuing, reissue or other applications based in whole or in part thereon. And we agree, for ourselves and our executors and administrators, with said corporation and its successors and assigns but at its or their expense and charges, hereafter to execute all applications, amended specifications, deed or other instrument, and to do all acts necessary or proper to secure the grant of Letters Patent in the United States and in all other countries to said corporation, with specifications and claims in such form as shall be approved by the counsel of said corporation and to vest and confirm in said corporation, its successors and assigns, the legal title to all such patents.

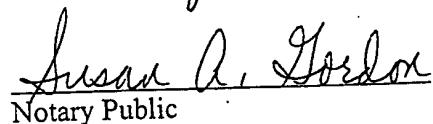
And we do hereby authorize and request the Commissioner of Patents and Trademarks of the United States to issue such Letters Patent as shall be granted upon said application or applications based thereon to said corporation, its successors and assigns.

WITNESS my hand and seal this 26th day of April, 2000.

By: 
Gary M. Silver

State of Colorado)
)
County of LARIMER)
)

Then personally appeared the above named Gary M. Silver and acknowledged the foregoing instrument to be his/her free act and deed, before me, this 26th day of April, 2000.


Susan A. Gordon
Notary Public

My commission expires: Nov. 22, 2000

WITNESS my hand and seal this 26 day of April, 2000.

By: Nancy Wisnewski
Nancy Wisnewski

State of Colorado)
County of LARIMER)ss

Then personally appeared the above named Nancy Wisnewski and acknowledged the foregoing instrument to be his/her free act and deed, before me, this 26th day of April, 2000.

Susan A. Gordon
Notary Public

My commission expires: Nov. 22, 2000

WITNESS my hand and seal this 26th day of April, 2000.

By: Kevin S. Brandt
Kevin S. Brandt

State of Colorado)
County of LARIMER)ss

Then personally appeared the above named Kevin S. Brandt and acknowledged the foregoing instrument to be his/her free act and deed, before me, this 26th day of April, 2000.

Susan A. Gordon
Notary Public

My commission expires: Nov. 22, 2000



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

JULY 20, 2000

PTAS

LAHIVE & COCKFIELD, LLP
ELIZABETH A. HANLEY, ESQ.
28 STATE STREET
BOSTON, MA 02109

COPY *101365618A*

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 05/08/2000

REEL/FRAME: 010800/0476
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
SILVER, GARY M.

DOC DATE: 04/26/2000

ASSIGNOR:
WISNEWSKI, NANCY

DOC DATE: 04/26/2000

ASSIGNOR:
BRANDT, KEVIN S.

DOC DATE: 04/26/2000

ASSIGNEE:
HESKA CORPORATION
1613 PROSPECT PARKWAY
FORT COLLINS, COLORADO 80525

SERIAL NUMBER: 09403942
PATENT NUMBER:

FILING DATE: 05/02/2000
ISSUE DATE:

| | |
|--------------|--------------------|
| RECEIVED | LAHIVE & COCKFIELD |
| DOCKET DEPT. | ENTERED |
| JUL 27 2000 | |
| RETRIEVED: | 7/28/00 Pat |
| FORWARDED: | 7/28/00 8/2/00 |

SHIRLIE SIMON, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS